

The 19/20th February, 1973

**No. 1404-4Lab-73/5603.**—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad in respect of the dispute between the workmen and the management of M/s Lakshmi Rattan Engineering Works, Limited, Faridabad.

**BEFORE SHRI O.P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,  
HARYANA, FARIDABAD**

**Application No. 24 of 1972 under section 33-A of the Industrial Disputes Act, 1947**

*between*

**SHRI RAM SINGH WORKMAN AND THE MANAGEMENT OF M/S LAKSHMI  
RATTAN ENGINEERING WORKS, LIMITED, FARIDABAD**

*Present :*

Shri Onkar Parshad for the workman.

Shri R. C. Sharma, for the management.

### **AWARD**

The facts relevant for the disposal of this complaint under section 33-A of the Industrial Disputes Act, 1947, may briefly be stated as under :—

The management of M/s Lakshmi Rattan Engineering Works Ltd., Faridabad laid off its workmen who raised an industrial dispute registered as I.D. No. 3 of 1972. The present complaint was brought by Shri Ram Singh, a workman concerned in the said dispute on 24th January, 1972 with the allegations that the management had served him with charge-sheet on 27th February, 1972 and he was also placed under suspension and an enquiry against him was started but the result of the enquiry was not communicated to him. It was further urged that as per his information the management had struck off his name from the muster rolls which was a contravention of the provisions of section 33 of the Industrial Disputes Act, 1947 since during the pendency of the said reference in which he was a workman concerned, no such action could legally be taken against him by the management.

With the above allegations in brief Shri Ram Singh prayed that the management be directed to reinstate him with full back wages. Notice of the complaint was given to the management. It has not been denied that this workman was given the charge-sheet on 27th February, 1972 and enquiry against him was held. However, it has been pleaded that, as a matter of fact, no action has been taken against him on the basis of the said enquiry nor have his service been terminated on account of any charge of misconduct either connected with the said industrial dispute No. 3 of 1972 or otherwise. According to the management this workman had absented himself from duty and his name had, therefore, to be struck off the rolls as per the standing orders of the company and as such there was no contravention of the provisions of the law so as to attract the present complaint under section 33-A of the Industrial Disputes Act, 1947.

The following issue was framed. —

- (1) Whether the management has terminated the services of the complainant in contravention of the provisions of section 33 of the Industrial Disputes Act, 1947, ? if so, what relief is he entitled ?

Shri Ram Singh has made his own statement as W.W. I while Shri R. C. Sharma, authorised representative of the management has, appeared as M.W. 1. The records of the enquiry proceedings have also been produced.

The case has been argued on both sides and I have given a careful consideration to the matter involved. As already observed, the workmen of this establishment had raised an industrial dispute (I.D. No. 3 of 1972) against the lay off resorted to by the management in which the present complainant Shri Ram Singh was a workman concerned. That dispute is still pending adjudication. The impugned action in respect of which the present complaint has been filed is alleged to have been taken during the pendency of the said dispute. The question for determination, however, is whether the management has done anything to contravene the provisions of section 33 of the Act so as to attract the present complaint as contemplated under section 33-A of the Act. On a close scrutiny of the facts on record, which are more or less admitted, the answer to the above question has to be in the negative. As would be clear from the pursual of the enquiry record and other documents filed in the case, read with the statement of Shri R.C. Sharma, authorised representative of the management, no action has been taken against this workman on the basis of the charge-sheet, dated 27th February, 1972, or for that matter, as a result of the findings of the Enquiry Officer who had conducted the enquiry. The workman himself admits that the result of the enquiry has not been communicated to him.

As stated above, the plea raised by the management is that, as a matter of fact, this workman had absented himself from the factory for more than 8 days consecutively, without any proper authorisation resulting into the loss of lieu on the posts held by him, and his name had, therefore, got to be struck off the rolls under the Certified Standing Orders of the Company. The above stand taken by the management appears to be unassailable on the showing of the workman himself. He was required to attend the factory every day even during the period of his suspension pending enquiry for which he was entitled to the payment of 50 per cent of his wages. It has been admitted by him in clear and unambiguous words in his cross examination that he had not gone to the factory after 27th June, 1972 nor is there any thing on the record to suggest that he had taken any step to explain his absence within the period prescribed under the standing orders. His name had, therefore, to be struck off the rolls and his services stood automatically terminated on account of his own conduct and the management was not called upon to take any action against him.

From the facts stated above, it would be clear that the management had not taken any disciplinary action against the present complainant by way of punishment on account of any mis-conduct connected with the Industrial Dispute referred to above, and no order of dismissal, discharge or termination of his services had been made. His services stood automatically terminated as a result of the striking off his name from the muster roll due to his absence from duty for more than 8 days consecutively and without any proper authorisation, as per the standing orders of the company by which he was governed. In the circumstances it could not be said that the management had contravened the provisions of section 33 of the Act and that being so, the present complaint under section 33-A of the Industrial Disputes Act, 1947 is not maintainable. The issue is accordingly decided against the complainant.

In view of my above finding on issue No. 1 no further proceedings are called for in the present complaint which stands to be dismissed as being not maintainable and I order accordingly. In the circumstances, there shall be no order as to costs.

Dated the 6th February, 1973.

O. P. SHARMA,  
Presiding Officer,  
Industrial Tribunal, Haryana.  
Faridabad.

No. 179, dated 6th February, 1973

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Department, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

The 6th February, 1973.

O. P. SHARMA,  
Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

The 21st February, 1973

No. 1483-4Lab-73/5762.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak, in respect of the dispute between the workmen and the management of M/s Auto & Metal Engineers, Faridabad.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, LABOUR COURT,  
HARYANA, ROHTAK

Reference No. 224 of 1971

between

SHRI SARDAR SINGH AND THE MANAGEMENT OF M/S AUTO & METAL  
ENGINEERS, FARIDABAD

Present :

Shri Sardar Singh, workman, concerned workman.

Shr R. C. Sharma, for the management.

### AWARD

Shri Sardar Singh, a workman of M/s Auto & Metal Engineers, Faridabad raised a dispute for his reinstatement and back wages which was referred to for adjudication to this court, —vide order No. ID/FD/297-E-71/32311-15, dated 4th November, 1971, in exercise of the powers conferred by clause (c) of sub-section (i) of Section 10 of the Industrial Disputes Act, 1947, with the following term of reference :—

“Whether the termination of services of Shri Sardar Singh was justified and in order ? If not, to what relief is he entitled ?”

Usual notices were given to the parties and they put in their respective written statements. The workmen has contended that his services had been illegally terminated by the management without any charge-sheet or inquiry. The management, on the other hand, had pleaded that as matter of fact this workman had been arrested by the police in a theft case and he had absented himself from duty for more than a fortnight without any proper authorisation even after he had been released on bail and he was, therefore, deemed to have lost the lien on his post as per the Model Standing Orders and his name had consequently been struck off the rolls. My learned predecessor framed the following 3 issues from the pleadings of the parties :—

- (1) Whether the workman automatically lost his lien on the service by the reasons of the continued absence ?

(2) Whether the workman reported for duty after being released on bail but the management did not give him duty.

(3) If the above issues are found in favour of the workman, whether the termination of services of Shri Sardar Singh was justified and in order? If not to what relief is he entitled?

The management examined 2 witnesses including Shri Bhoji Vallabh, Time-Keeper M.W. 1 and Shri V. K. Jain, General Manager M.W. 2. Shri Sardar Singh workman concerned has made his own statement without producing any other evidence oral or documentary.

Arguments have been addressed on both sides and I have given a considered thought to the facts on record. It is a common ground between the parties that Shri Sardar Singh concerned workman had been arrested by the Police in connection with a theft case on 28th May, 1969. According to him he had been released on bail after 2-3 days. But from the statement of the Time Keeper M.W. 1 read with that of the General Manager M. W. 2 it is clear that he did not report for duty in the factory for more than 10 days consecutively with the result that his services stood automatically terminated as per the Model Standing Orders by which he was governed. There is no satisfactory evidence on record, documentary or oral, to indicate that he had reported for duty in the factory after being released on bail. As stated by the General Manager M. W. 2, he, in fact, never came to the factory to resume his work and I have no reason to disbelieve his statement which is further supported by the conduct of the workman himself in not raising the present dispute for a period of 18 months or so. According to him, the management had terminated his services on 28th May, 1969 but the demand notice leading to the present reference was given by him on 24th December, 1970. No explanation what ever has been given for this inordinate delay in raising the dispute especially when he had been released on bail only after 2 or 3 days of his arrest. In the circumstances, the plea raised by the management that he had lost the lien on his post and his services stood automatically terminated on account of his continued absence from duty has got to be accepted.

For the reason aforesaid, issues No. 1 and 2 are decided against the workman. Issue No. 3 does not arise for consideration since the management had not done any thing to terminate the services of the workman concerned who, as already observed, had lost the lien on his post by his own conduct.

In view of the above, Shri Sardar Singh concerned workman is not entitled to any relief by way of reinstatement or back wages. The reference is accordingly answered against him. There shall be no order as to costs.

Dated the 8th February, 1973.

O. P. SHARMA,

Presiding Officer,  
Labour Court, Haryana,  
Rohtak.

No. 501 dated the 10th February, 1973

Forwarded (four copies) to the Secretary to Government of Haryana, Labour & Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

O.P. SHARMA,  
Presiding Officer,  
Labour Court, Haryana, Rohtak.